

## **II. REMARKS**

### **A. Summary of the amendments**

The application now contains 37 claims, numbered 20-23, 25, 26, 28, 30, 31, 33, 34, 36-46, 52, and 54-67.

The potential allowability of claims 25, 26, 36-45 and 52 is gratefully acknowledged.

Claims 19, 24, 27, 29, 32, 35, 47-51 and 53 have been cancelled.

Claims 36 and 40 have each been rewritten in independent form to include all of the limitations of the former base claim (former claim 19, now cancelled). Similarly, claim 52 has been rewritten in independent form to include all of the limitations of the former base claim (former claim 48, now cancelled).

Claims 20-23, 25, 28, 30, 44 and 46 have been amended to change the claim dependency so as to depend from claim 36, which is now in independent form.

New claims 54-67 have been added to the application. New claims 54-67 mirror claims 20-23, 25, 26, 28, 30, 31, 33, 34 and 44-46 but depend on claim 40, which is now in independent form, rather than on claim 36.

## **B. Summary of Rejections and Reply**

### **1) Rejection of claims 19-53 under judicially created doctrine of obviousness-type double patenting**

On page 2 of the Office Action, the Examiner has rejected claims 19-53 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-24 of U.S. Patent No. 6,419,120.

The present response is being filed with a Terminal Disclaimer under 37 CFR §1.321(c) (along with a copy of an Assignment which is also being filed separately and simultaneously with this response) in order to obviate the nonstatutory double patenting rejection on the basis of claims 1-24 of U.S. Patent No. 6,419,120, set forth in the Office Action. Accordingly, it is respectfully submitted that the nonstatutory double patenting rejection is overcome by the Terminal Disclaimer. The Examiner is thus respectfully requested to withdraw the rejection of claims 19-53 under the judicially created doctrine of obviousness-type double patenting.

### **2) Rejection of claims 48, 49, 51 and 53 under 35 U.S.C. §102**

On page 3 of the Office Action, the Examiner has rejected claims 48, 49, 51 and 53 under 35 U.S.C. §102(b) as being anticipated by Ficken U.S. Patent No. 5,344,050 (hereinafter referred to as "Ficken"). In view of the cancellation of claims 48, 49, 51 and 53 from the instant application, the Applicant respectfully submits that the Examiner's rejection is moot.

### **3) Rejection of claims 19-24, 27-29 and 46-50 under 35 U.S.C. §103**

On page 4 of the Office Action, the Examiner has rejected claims 19-24, 27-29 and 46-50 under 35 U.S.C. §103(a) as being unpatentable over Ruskin et al. U.S. Patent

No. 4,595,131 (hereinafter referred to as "Ruskin") in view of Ficken U.S. Patent No. 5,344,050 (hereinafter referred to as "Ficken").

In view of the cancellation of claims 19, 24, 27, 29 and 47-50 from the instant application, the Applicant respectfully submits that the Examiner's rejection of these claims is moot.

Furthermore, claims 20-23, 28 and 46 now depend on claim 36, which has been rewritten in independent form. Since the Examiner indicated that claim 36 would be allowable if rewritten in independent form and the double-patenting rejection was overcome, which is now the case, it is respectfully submitted that claim 36 is now in condition for allowance. Due to their dependency on claim 36, it is respectfully submitted that claims 20-23, 28 and 46 are also in condition for allowance.

#### **4) Rejection of claims 30-35 under 35 U.S.C. §103**

On page 4 of the Office Action, the Examiner has rejected claims 30-35 under 35 U.S.C. §103(a) as being unpatentable over Ruskin et al. U.S. Patent No. 4,595,131 (hereinafter referred to as "Ruskin") in view of Ficken U.S. Patent No. 5,344,050 (hereinafter referred to as "Ficken") and further in view of Struminski et al. U.S. Patent No. 6,202,894 (hereinafter referred to as "Struminski").

In view of the cancellation of claims 32 and 35 from the instant application, the Applicant respectfully submits that the Examiner's rejection of these claims is moot.

Furthermore, claims 30, 31, 33 and 34 now depend either directly or indirectly on claim 36, which has been rewritten in independent form. Since the Examiner indicated that claim 36 would be allowable if rewritten in independent form and the double-patenting rejection was overcome, which is now the case, it is respectfully submitted that claim 36 is now in condition for allowance. Due to their dependency


on claim 36, it is respectfully submitted that claims 30, 31, 33 and 34 are also in condition for allowance.

### **III. CONCLUSION**

In view of the foregoing, the Applicant respectfully submits that claims 20-23, 25, 26, 28, 30, 31, 33, 34, 36-46, 52, and 54-67 are in allowable form. Favourable reconsideration is requested. Early allowance of the Application is earnestly solicited.

If the application is not considered to be in full condition for allowance, for any reason, the Applicant respectfully requests the constructive assistance and suggestions of the Examiner in drafting one or more acceptable claims pursuant to MPEP 707.07(j) or in making constructive suggestions pursuant to MPEP 706.03 so that the application can be placed in allowable condition as soon as possible and without the need for further proceedings.

Respectfully submitted,



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